

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8442 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAMAD IBRAHIM SANGAR

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR UA TRIVEDI, AGP for respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/11/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order of detention dated April 20, 1996.

2. It appears from the grounds of detention that six cases have been registered against the detainee in the year 1995. The first three offences pertain to offences under the provisions of the Bombay Police Act, 1948 and the rest of the three cases are under various offences of

IPC sections 324, 326, 504, 338. The petitioner was released on bail on January 02, 1996.

3. Learned counsel for the petitioner, though has raised number of contentions in the memo of petition, he has pressed only one contention viz. there is undue and unreasonable delay in passing the impugned order of detention and the delay which stands unexplained vitiates the impugned order. He placed reliance on the decision rendered by the Apex Court in case of Pradeep Nilkantha v. S.Ramamurthi reported in AIR 1994 SC 656.

4. No reply to the petition has been filed. However, this Special Civil Application has been opposed by the ld. AGP. It is submitted that the statements of the witnesses were recorded on April 20, 1996. The first witness has referred to the incidents prior to 1.1/2 months, second witness has referred to an incident of three months back, the third witness has referred to an incident of one month back and the fourth witness has referred to an incident of 20 days. The statements are vague. Even if the delay is computed from the date of incidents as alleged in the statements made by different witnesses and the date of order of detention, the same is fatal in view of the law laid down by the Supreme Court in Pradeep Nilkantha's case (supra). Thus, in my view, on this count alone, the impugned order of detention deserves to be quashed and set aside.

5. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention is quashed and set aside. The petitioner detenue shall be forthwith released, if he is not required in any other case. Rule is made absolute accordingly.

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